S.B. CIVIL WRIT PETITION NO.3165/2007

Smt. Laxmi & Ors.
Vs.
Rent Tribunal, Alwar & Ors.

DATE OF ORDER : 22.5.2007

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Shailesh Prakash Sharma for the petitioners.

Heard learned counsel for the petitioners.

The petitioners have challenged the order dated 22.1.2007 whereby the Rent Tribunal on application of respondent no.2 allowed as many as five affidavits to be taken on record. He has argued that in terms of Section 15 of the Rent Control Act 2001, such affidavits were required to be filed with the

application for eviction of the tenant. Even though the relevant para of the application have mention of the names of aforesaid witnesses but did not file affidavits in the application, such affidavits could not be procured and filed earlier because those deponents were not available at that stage.

Learned counsel argued that taking the affidavits on record at this belated stage would frustrate the very purpose of Section 15.

Having heard learned counsel for the petitioners and perused the impugned order, I find that the names of deponents whose affidavits have been filed were already mentioned in the petition. This

order was passed way back on 22.1.2007. When the names of the witnesses whose affidavits were to be relied on by the petitioner were already mentioned at the first available opportunity in the petition, they cannot be taken to be strangers to the case. Placing their evidence would only come in aid of the Court to effectively pronounce upon the controversy involved in the matter. This would not cause prejudice to the respondents because he can also ask on permission to cross-examine any of these witnesses and even produce affidavits in rebuttal. I do not find any such request having been made by the respondent to the learned Tribunal.

I, therefore, do not find any ground to interfere with the order of the

Tribunal and leave it open to the petitioners to make appropriate application which shall be considered and decided by the Tribunal in accordance with law.

With these observations, the petition stands disposed of.

(MOHAMMAD RAFIQ),J.

Skant/-